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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,011	03/30/2004	Derrick Fauchaux		1008

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EXAMINER

AVILA, STEPHEN P

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/815,011

Applicant(s)

FAUCHEUX ET AL.

Examiner

Stephen Avila

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-15, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 7 and 16-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 033004
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 8-13, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al in view of Christiaens et al. Adams et al disclose the claimed subject matter including a method and apparatus for a transom mounted watercraft drive unit with a support plate 18, a sleeve 26, a first drive shaft 92, an upper bracket 20, a lower bracket 22, a universal joint 90, a drive shaft housing 31, a second drive shaft 32, bearings, a propeller 68, a hydraulic ram 74 with a piston rod 78, skeg 77, a cavitation plate 66, and steering means 48. Not disclosed by Adams et al is a spring return hydraulic ram. Christiaens et al teach a spring return hydraulic ram. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the hydraulic cylinder of Adams et al as a spring return hydraulic ram as taught by Christiaens et al for to ensure that the piston always returns to the fully retracted position.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al in view of Christiaens et al as applied to claim 1 above, and further in view of Martin. Adams et al do not disclose a weedless propeller. Martin disclose a weedless propeller. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the propeller of Adams et al as a weedless propeller to prevent stalling.

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4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al in view of Christiaens et al and Martin as applied to claim 5 above, and further in view of Johnson, Sr. (cited by Applicant). Adams et al do not disclose a steering cylinder.

Johnson, Sr. teaches a steering cylinder 78. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the device of Adams et al with a steering cylinder as taught by Johnson, Sr. for improved steering action.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al in view of Christiaens et al as applied to claim 12 above, and further in view of Johnson, Sr. (cited by Applicant). Adams et al do not disclose a steering cylinder.

Johnson, Sr. teaches a steering cylinder 78. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the device of Adams et al with a steering cylinder as taught by Johnson, Sr. for improved steering action.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al in view of Christiaens et al and Johnson, Sr. as applied to claim 14 above, and further in view of Martin. Adams et al do not disclose a weedless propeller. Martin disclose a weedless propeller. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the propeller of Adams et al as a weedless propeller to prevent stalling.

7. Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 depends upon itself.

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8. Claims 7 and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Teja teaches a single action spring return piston rod.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Avila whose telephone number is 703-308-2578. The examiner can normally be reached on Monday to Thursday from 8 AM to 4 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen Avila
Primary Examiner
Art Unit 3617

SA
9/18/04